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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,018	05/23/2001	James Taylor McVeigh	27DV00102	9982

7590   01/12/2006

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EXAMINER
VIG, NARESH

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/864,018	MCVEIGH, JAMES TAYLOR
	Examiner	Art Unit
	Naresh Vig	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _28 October 2005_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date: _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This is in reference to response received 28 October 2005 to the office action mailed 29 April 2005. There are 10 claims, claims 1 – 10 pending for examination.

Response to Arguments

In response to applicant's argument that applicant's invention provides user with a tool which plots (draws graph) using plurality of variables. Applicant claims its tool takes specific input and plots a graph with four quadrants. However, Cited reference Apgar teaches computer system which can plot graph [Apgar, claim 20]. Cited reference Hampar teaches that plurality of values can be used to plot a graph in 4 quadrants.

In response to applicant's argument that Hampar in a non-analogous art, and, this is not in applicant's invention namely real estate. However, cited reference Apgar teaches computer system with graph capability [Apgar, claim 20]. Cited reference Hampar teaches the graph can be plotted using plurality of variables in four quadrants to help user visualize where majority of data tend to fall to determine indication of data used for evaluation [Hampar, col. 3, lines 18 – 34].

In response to applicant's argument that Hampar shows plot of two variables with lines parallel to the axes of the graph, it is not clear from Hampar whether this plot is even presented to a user. However, as responded to earlier, Apgar in view of Hampar teaches this limitation.

Applicants other arguments and concerns are responded to in response to the pending claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1- 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar US Patent 5680305 in view of Hampar et al. US Patent 7,764,459 hereinafter known as Hampar.

Regarding claims 1 and 10, as responded to earlier in response to applicant's argument that applicant claims its tool takes specific input and plots a graph with four quadrants, Apgar teaches system and method for evaluating cost and occupancy

efficiency of real estate (to provide objective evaluations of a business entity's real

estate situation). Apgar teaches to run on computer system, it obvious that computer

systems have storage medium to store computer program to make the computer

function as designed in the computer program. Apgar teaches capability for user:

entering into a computer system the size, rental costs and total occupancy

information for a given property, as well as location information "The user inputs

typically correspond to information about the Business Entity and the real estate [col.

15, lines 41 – 42];

calculating values of cost efficiency and occupancy efficiency [Fig. 19 and

disclosure associated with Fig. 19];

providing a point of comparison by determining from a lookup table (applicant

has not specifics of lookup table in the disclosure originally filed 28 September 2001)

the representative values for cost efficiency and occupancy efficiency for a property in

the location of the given property (Apgar teaches to plot graph which uses plurality of

values) [Apgar, claim 20, Fig. 19 and disclosure associated with Fig. 19];

Apgar does not specifically teach displaying on a chart with four quadrants, which

plots cost efficiency and occupancy efficiency against one another (design choice to

decide what values to be plotted against one another on the chart), a point whose co-

ordinates represent said calculated values, the chart comprising four quadrants

delineated by the lines parallel with the axes of the chart and which pass through the

point of comparison (design choice deciding what data is plotted on the chart, what

labels are assigned to the chart). However, Hampar teaches system and method for

displaying on a chart with four quadrants, which plots values against one another, a

point whose co-ordinates represent said calculated values, the chart comprising four

quadrants delineated by the lines parallel with the axes of the chart and which pass

through the point of comparison [Hampar, Fig. 1 and disclosure associated with Fig. 1].

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Apgar as taught by Hampar display the scattered

data to visualize the data to illustrate relationship between variables, illustrate clear

trend in data etc.

Regarding claim 2, Apgar in view of Hampar teaches capability to calculate cost

efficiency in terms of rental cost per unit area per unit time, and occupancy efficiency is

calculated in terms of unit area per occupant.

Regarding claim 3, Apgar in view of Hampar teaches point of comparison is

placed substantially centrally in the displayed chart, thereby providing four quadrants of

substantially equal areas [Hampar Fig. 1 and disclosure associated with Fig. 1].

Regarding claim 4, Apgar in view of Hampar teaches capability to handle the

quadrants represent a first area where both the cost efficiency and occupancy efficiency

are better than the values represented by the point of comparison, second and third

areas where either the cost efficiency or the occupancy efficiency are worse than the

averages represented by the point of comparison, and a fourth area where both the cost

efficiency and the occupancy efficiency are worse than the averages represented by the

point of comparison (naming of variables used in plotting the graph).

Regarding claims 5 – 8, Apgar in view of Hampar teaches capability to plot the

graph with four quadrants where representative values are average values (design

choice to decide what values to use plotting the chart).

Regarding claim 9, as responded to earlier in response applicants arguments

and in response to claim 1, Apgar teaches a computer system for evaluating cost and

occupancy efficiency of real estate. Apgar teaches:

means for receiving and displaying information comprising size, rental costs and

total occupancy information for a given property, as well as location information;

means for calculating values of cost efficiency and occupancy efficiency;

means for providing a point of comparison by determining from a lookup table the

representative values for cost efficiency and occupancy efficiency for a property in the

location of the given property; and

Apgar does not specifically teach displaying on a chart with four quadrants, which

plots cost efficiency and occupancy efficiency against one another (design choice to

decide what values to be plotted against one another on the chart), a point whose co-

ordinates represent said calculated values, the chart comprising four quadrants

delineated by the lines parallel with the axes of the chart and which pass through the

point of comparison (design choice deciding what data is plotted on the chart, what

labels are assigned to the chart). However, Hampar teaches system and method for displaying on a chart with four quadrants, which plots values against one another, a point whose co-ordinates represent said calculated values, the chart comprising four quadrants delineated by the lines parallel with the axes of the chart and which pass through the point of comparison [Hampar, Fig. 1 and disclosure associated with Fig. 1].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Apgar as taught by Hampar display the scattered data to visualize the data to illustrate relationship between variables, illustrate clear trend in data etc.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CRF '1.111 (c) to consider the references fully when responding to this office action.
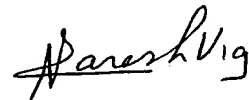
1.   Information on Chase 1.0 labeled as Chase 1.0

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Naresh Vig
Examiner
Art Unit 3629

January 9, 2006